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9 IN THE UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,
12
13 Plaintiff,
14 v.
15 JONATHAN LOPEZ,
16 Defendant.

CASE NO. 1:22-CR-00291-JLT-SKO

**STIPULATION AND ORDER TO VACATE
STATUS CONFERENCE AND SET TRIAL**

17 **BACKGROUND**

18 This case is set for status conference on November 15, 2023. The parties request the status
19 conference be vacated and a trial be scheduled to begin on March 19, 2024, with a trial confirmation
20 hearing on March 4, 2024. The Supreme Court has emphasized that the Speedy Trial Act’s end-of-
21 justice provision “counteract[s] substantive openendedness with procedural strictness,” “demand[ing]
22 on-the-record findings” in a particular case. *Zedner v. United States*, 547 U.S. 489, 509 (2006).
23 “[W]ithout on-the-record findings, there can be no exclusion under” § 3161(h)(7)(A). *Id.* at 507.
24 Moreover, any such failure cannot be harmless. *Id.* at 509; *see also United States v. Ramirez-Cortez*,
25 213 F.3d 1149, 1153 (9th Cir. 2000) (explaining that a judge ordering an ends-of-justice continuance
26 must set forth explicit findings on the record “either orally or in writing”).

27 Ends-of-justice continuances are excludable only if “the judge granted such continuance on the
28 basis of his findings that the ends of justice served by taking such action outweigh the best interest of the

public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A). Moreover, no such period is excludable unless “the court sets forth, in the record of the case, either orally or in writing, its reason or finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial.” *Id.*

In light of the foregoing, this Court should consider the following case-specific facts in finding excludable delay appropriate in this particular case under the ends-of-justice exception, § 3161(h)(7) (Local Code T4). If continued, this Court should designate a new date for the status conference. *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be “specifically limited in time”).

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant’s counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for a status conference on November 15, 2023.
2. By this stipulation, the defendant moves to vacate the November 15, 2023 status conference, and to exclude time between November 15, 2023 and March 19, 2024 under 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4].
3. The parties agree and stipulate, and request that the Court find the following:
 - a) The government provided discovery to the defense on November 18, 2022. The discovery consists of numerous recorded jailhouse phone calls, investigative reports, photographs, and other information.
 - b) The government provided supplemental discovery on October 30, 2023, in response to defense requests. The defense requests additional time to review the supplemental discovery and conduct ongoing investigation.
 - c) The Government provided a revised plea offer to defense counsel on November 2, 2023. Defense counsel requests additional discuss the offer with her client, and the parties require additional time to engage in further negotiations.
 - d) The government does not object to the continuance.
 - e) Based on the above-stated findings, the ends of justice served by continuing the case as

requested outweigh the interest of the public and the defendant in a trial within the original date prescribed by the Speedy Trial Act.

f) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period from November 15, 2023, to March 19, 2024 inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4] because it results from a continuance granted by the Court at defendant's request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence

IT IS SO STIPULATED.

Dated: November 8, 2023

PHILLIP A. TALBERT
United States Attorney

/s/ ARIN C. HEINZ
ARIN C. HEINZ
Assistant United States Attorney

Dated: November 8, 2023

/s/ CHRISTINA M. CORCORAN
Christina M. Corcoran
Counsel for Defendant
Jonathan Lopez

ORDER

IT IS SO ORDERED.

DATED: 11/9/23

Sheila K. Oberto
THE HONORABLE SHEILA K. OBERTO
UNITED STATES MAGISTRATE JUDGE